



# Department of Justice

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## **SENTENCINGS CONCLUDED FOR CONVICTED BERKELEY EXECUTIVES**

CINCINNATI – The last of eleven Berkeley Premium Nutraceutical executives who either pleaded guilty or were convicted for their part in a multi-million dollar fraud scheme was sentenced in United States District Court here today.

Gregory G. Lockhart, United States Attorney for the Southern District of Ohio; Gerald A. O'Farrell, Assistant Inspector in Charge, United States Postal Inspection Service; Keith L. Bennett, Special Agent in Charge, Federal Bureau of Investigation, Cincinnati Field Division; Jose A. Gonzalez, Special Agent in Charge, Internal Revenue Service Criminal Investigation, and Kim Rice, Special Agent in Charge, U.S. Food and Drug Administration Office of Criminal Investigations (FDA) announced the sentences handed down by Senior United States District Judge S. Arthur Spiegel.

Judge Spiegel today sentenced Berkeley's in-house attorney, Paul Kellogg, age 41, of West Chester, to a term of one year and one day imprisonment, followed by three years of supervised release. A jury convicted Kellogg in February 2008 of six counts of conspiracy including conspiracy to obstruct proceedings before the Food and Drug Administration and the Federal Trade Commission, and money laundering.

On Wednesday, August 27, Judge Spiegel sentenced:

\* **Steven E. Warshak**, company president and owner, to a total term of 25 years imprisonment, followed by five years of supervised release, with a fine of \$93,000. A United States District Court jury convicted Warshak, who is president and owner of Berkeley, on February 22, 2008 of five counts of conspiracy to commit money laundering and various types of fraud as well as conspiracy to obstruct proceedings before the U.S. Federal Trade Commission, 12 counts of mail fraud, three counts of bank fraud, and 73 counts of money laundering for a total of 93 counts.

\* **Harriet Warshak**, the mother of Steven E. Warshak, to a term of 24 months imprisonment followed by three years of supervised release. The same jury convicted Harriet Warshak of a total of eight counts including conspiracy, bank fraud and money laundering.

In addition to several forfeited assets, Steven Warshak was ordered to forfeit to the United States the sum of \$459,540,000, jointly and severally with Harriet Warshak and Berkeley Premium Nutraceuticals. It was also ordered that Steven Warshak forfeit to the United States the sum of \$44,876,781.68, jointly and severally with Harriet Warshak and Paul Kellogg. These amounts represent the proceeds of the crimes.

On Thursday, August 28, Judge Spiegel sentenced the following four individuals who pleaded guilty on February 16, 2006 to one count of conspiracy to commit mail and wire fraud:

\* **Greg J. Cossman**, age 51, of Maineville, who held several leadership roles including President to a term of one year imprisonment followed by three years of supervised release.

\* **Susan Cossman**, age 45, of Maineville, who served as division manager with supervisory responsibility over three different divisions – Customer Care, Decline Recovery, and Professional Division and is the wife of Greg Cossman to a term of one year imprisonment followed by three years of supervised release.

**Greg J. Cossman** and **Susan B. Cossman** have already jointly forfeited the sum of \$1,000,000.

\* **Shelly B. Kinmon**, age 34, of Union, Kentucky who served in various capacities including Vice President of Sales, and helped develop sales scripts for Berkeley, to a term of one year imprisonment followed by three years of supervised release.

\* **James G. Teegarden, Jr.**, age 36, of Florence, Kentucky who also served in various capacities including Vice President of Operations, to a term of one year imprisonment followed by three years of supervised release.

Also on Thursday, Judge Spiegel sentenced the following four people for their roles in the scheme:

\* **Steven P. Pugh**, age 38, of West Chester, who worked primarily in the warehouse as a manager at Berkeley to 12 months and one day imprisonment, followed by three years of supervised release. Pugh was convicted in February 2008 of one count of conspiracy to obstruct proceedings of the Food and Drug Administration.

\* **William Bertemes**, a company accountant, to one month imprisonment followed by three years of supervised released, and fined \$10,000.00 Bertemes pleaded guilty on May 11, 2006 to one count of obstruction of justice.

\* **Samuel Grote**, who worked in Berkeley's accounting department, to one month imprisonment followed by 2 years of supervised release, and fined \$1,000. Grote pleaded guilty on January 10, 2007 to one count of conspiracy.

\* **Michael V. Wagner**, former Berkeley controller, to 12 months and one day imprisonment followed by three years of supervised release. Wagner pleaded guilty on March 2, 2006 to one count of conspiracy to commit mail fraud and wire fraud.

On Wednesday, Judge Spiegel also sentenced Warshak's company, Berkeley Premium Nutraceuticals, to five years of probation and fined \$15,000,000, to be paid in installment payments of \$250,000 per month. The jury convicted Berkeley of 15 counts including conspiracy, mail fraud and misbranding Another Warshak-owned company, TCI Media, Inc., was sentenced to five years of probation and fined \$160,000.00. The jury convicted TCI Media, Inc. of 21 counts of money laundering. During their probationary periods, the companies have been ordered to comply with a compliance plan to be developed by the U.S. Attorney, U.S. Probation Office, and the Federal Trade Commission.

The jury found that the company and the individuals illegally made millions of dollars over a five-year period through a fraud scheme that sent thousands of customers dietary supplements they did not order, charged customers' credit cards without authorization, misrepresented their business activities to their customers and the merchant banks they worked with, and laundered the money through personal bank and investment accounts.

"This monumental case showed federal law enforcement at their finest," Lockhart said. "Making successful cases against eleven executives requires diligence, ability and commitment."

“In partnership with the FBI, IRS, and FDA, the investigation uncovered the largest consumer mail fraud scheme in the Southern District of Ohio,” said Gerald A. O’Farrell, Assistant Inspector in Charge, United States Postal Inspection Service. “Each agency brought to bear highly specialized expertise in foiling this massive fraud. The mission of the U.S. Postal Inspection Service is to protect the mail system from criminal misuse like that described in the Berkeley trial. This investigation demonstrates that the American public can have continued confidence in the integrity of the U.S. Mail.”

Keith L. Bennett, Special Agent in Charge, FBI Cincinnati Division, stated, "The Berkeley investigation, prosecutions, and convictions demonstrate the cooperative relationship of the FBI and the other federal law enforcement and regulatory agencies involved. No one agency has the resources to investigate the wide-ranging criminal activities engaged in by those sentenced this week. By combining our skills and expertise however those agencies can bring to justice those who would use the complexities of our financial system to victimize the public."

“This investigation uncovered a fraudulent scheme that generated millions of dollars,” said Special Agent in Charge Jose A. Gonzalez. “IRS-CI is united with the rest of the law enforcement community in our resolve to financially disrupt criminal organizations that commit crimes against our society. Let these convictions stand as a warning to those who victimize the public that whether you are the main perpetrator of a fraud, or merely assist in its facilitation, the law will hold all guilty parties accountable."

“The defendants gained enormous profits at the consumers’ expense,” stated FDA, Office of Criminal Investigations, Special Agent-in-Charge Kim A. Rice. “These sentences reflect the public’s right to expect punishment for those who conspire to obstruct justice and falsely label products to further their fraudulent conduct.”

Lockhart commended the cooperative investigation by inspectors and agents from the U.S. Postal Inspection Service, FBI, IRS, and FDA, as well as Assistant U.S. Attorneys Anne L. Porter and Karl Kadon, and Mark Josephs, Trial Attorney with the U.S. Department of Justice Office of Consumer Litigation, who prosecuted the case, and Assistant U.S. Attorneys Nettie Wiethe and Deborah Grimes who handled the forfeiture aspects of the case.

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